IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

LA.App..No. 975 of 2002()

LAR.35/2000 of SUB COURT,THRISSUR
.....

APPELLANT: 2ND RESPONDENT IN LAR 35/2000:

THE SECRETARY,
THRISSUR CORPORATION,
THRISSUR.

BY ADV. SRI.K.B.MOHANDAS,SC,THRISSUR CORPORATION
SRI.T.G.LELLULAL

RESPONDENTS: CLAIMANTS & IST RESPONDENT IN LAR 35/2000:
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1. **K.A.BALACHANDRAN, XI/743, VELIYANNOOR, THRISSUR.,**

2. **THE SPECIAL TAHSILDAR (L.A.), THRISSUR CORPORATION, THRISSUR.**

R1 BY ADV. SRI.G.UNNIKRISHNON

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.4582/2002 IN L.A.A.NO.975/2002

DISMISSED

08.10.2007 **Sd/-KURIAN JOSEPH,JUDGE**

Sd/- HARUN-UL-RASHID,JUDGE

TRUE COPY

P.A.TO JUDGE

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NOs. 975 & 1059 OF 2002

Dated this the 8th day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

These are appeals filed by the requisitioning authority as well as the claimant respectively against the judgment and decree in L.A.R. No. 35/2000 on the file of the Sub Court, Thrissur. Acquisition is for the purpose of formation of Erattachira-Chettiangadi road.

2. The extent involved is 0.0127 hectares. In the nature of the order we propose to pass in these cases, it is not necessary to extensively go through the contentions taken by the parties. The reference court relied on the notes to award in L.A.R. No. 57/1994. It is submitted that those records were not before the court.

3. Be that as it may, the reference court itself found that the land involved in L.A.R. No. 57/1994 is not adjacent to the acquired land. However, for the only reason that the acquisition is for the same purpose, the said document was relied on. We are afraid the said approach is not proper. Thus the reference court has not exercised its jurisdiction properly.

We set aside the judgment and decree in L.A.R. No. 35/2000 and remit the matter to the reference court with liberty to the parties to adduce fresh evidence. Since the cases are remanded, the appellants are entitled to refund of the court fee. The parties will appear before the reference court on 19.11.2007 and thereafter the cases will be disposed of within a period of another four months.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NOs. 975 & 1059 OF 2002

J U D G M E N T

08.10.2007